TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 65 - MALICIOUS MISCHIEF

§ 1365. Tampering with consumer products

(a) Whoever, with reckless disregard for the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk, tampers with any consumer product that affects interstate or foreign commerce, or the labeling of, or container for, any such product, or attempts to do so, shall—

(1) in the case of an attempt, be fined under this title or imprisoned not more than ten years, or both;
(2) if death of an individual results, be fined under this title or imprisoned for any term of years or for life, or both;
(3) if serious bodily injury to any individual results, be fined under this title or imprisoned not more than twenty years, or both; and
(4) in any other case, be fined under this title or imprisoned not more than ten years, or both.

(b) Whoever, with intent to cause serious injury to the business of any person, taints any consumer product or renders materially false or misleading the labeling of, or container for, a consumer product, if such consumer product affects interstate or foreign commerce, shall be fined under this title or imprisoned not more than three years, or both.

(c) (1) Whoever knowingly communicates false information that a consumer product has been tainted, if such product or the results of such communication affect interstate or foreign commerce, and if such tainting, had it occurred, would create a risk of death or bodily injury to another person, shall be fined under this title or imprisoned not more than five years, or both.

(2) As used in paragraph (1) of this subsection, the term “communicates false information” means communicates information that is false and that the communicator knows is false, under circumstances in which the information may reasonably be expected to be believed.

(d) Whoever knowingly threatens, under circumstances in which the threat may reasonably be expected to be believed, that conduct that, if it occurred, would violate subsection (a) of this section will occur, shall be fined under this title or imprisoned not more than five years, or both.

(e) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties intentionally engages in any conduct in furtherance of such offense, shall be fined under this title or imprisoned not more than ten years, or both.

(f) (1) Whoever, without the consent of the manufacturer, retailer, or distributor, intentionally tampers with a consumer product that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or in the container for the consumer product, before the sale of the consumer product to any consumer shall be fined under this title, imprisoned not more than 1 year, or both.

(2) Notwithstanding the provisions of paragraph (1), if any person commits a violation of this subsection after a prior conviction under this section becomes final, such person shall be fined under this title, imprisoned for not more than 3 years, or both.

(3) In this subsection, the term “writing” means any form of representation or communication, including hand-bills, notices, or advertising, that contain letters, words, or pictorial representations.

(g) In addition to any other agency which has authority to investigate violations of this section, the Food and Drug Administration and the Department of Agriculture, respectively, have authority to investigate violations of this section involving a consumer product that is regulated by a provision of law such Administration or Department, as the case may be, administers.

(h) As used in this section—

(1) the term “consumer product” means—
(A) any “food”, “drug”, “device”, or “cosmetic”, as those terms are respectively defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); or
(B) any article, product, or commodity which is customarily produced or distributed for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which is designed to be consumed or expended in the course of such consumption or use;
(2) the term “labeling” has the meaning given such term in section 201(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 (m));
(3) the term “serious bodily injury” means bodily injury which involves—
(A) a substantial risk of death;
(B) extreme physical pain;
(C) protracted and obvious disfigurement; or
(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and
(4) the term “bodily injury” means—
(A) a cut, abrasion, bruise, burn, or disfigurement;
(B) physical pain;
(C) illness;
(D) impairment of the function of a bodily member, organ, or mental faculty; or
(E) any other injury to the body, no matter how temporary.


Codification

Another section 1365 was renumbered section 1366 of this title.

Amendments

2002—Subsecs. (f) to (h). Pub. L. 107–307 added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.
1994—Subsec. (a)(1). Pub. L. 103–322, § 330016(1)(O), substituted “fined under this title” for “fined not more than $25,000”.
Subsec. (a)(2), (3). Pub. L. 103–322, § 330016(1)(S), substituted “fined under this title” for “fined not more than $100,000”.
Subsec. (a)(4). Pub. L. 103–322, § 330016(1)(Q), substituted “fined under this title” for “fined not more than $50,000”.
Subsec. (b). Pub. L. 103–322, § 330016(1)(L), substituted “fined under this title” for “fined not more than $10,000”.
Subsecs. (c)(1), (d), (e). Pub. L. 103–322, § 330016(1)(O), substituted “fined under this title” for “fined not more than $25,000”.

Short Title of 2002 Amendment


Short Title

Section 1 of Pub. L. 98–127 provided: “That this Act [enacting this section and section 155A of Title 35, Patents] may be cited as the ‘Federal Anti-Tampering Act’.”